

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

No. 1:07-CR-00104

v.

(Judge Brann)

OLLIE OTIS REAVES,

Defendant.

**ORDER**

**JUNE 14, 2019**

**BACKGROUND:**

Defendant Ollie Otis Reaves was sentenced to a statutory mandatory minimum term of life imprisonment<sup>1</sup> on May 27, 2009 pursuant to 18 U.S.C. §§ 841(b)(1)(A)(iii) and 851 for conspiracy to distribute and possess with intent to distribute 50 grams or more of cocaine base.<sup>2</sup>

In the ensuing decade since Reaves was sentenced, the Fair Sentencing Act of 2010 was enacted. This Act would have reduced his mandatory minimum sentence to ten years, but for the fact that the Fair Sentencing Act was not made retroactive until December 21, 2018 with the ratification of the First Step Act of 2018.

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<sup>1</sup> Reaves was sentenced by my late colleague, the Honorable William W. Caldwell. The matter has since been reassigned to the undersigned.

<sup>2</sup> ECF No. 357.

The Government and Defendant agree that Reaves is entitled to re-sentencing, but the parties dispute whether Reaves should be provided a plenary re-sentencing or whether this Court should re-sentence Reaves based solely on the parties' written submissions. I reserve the question of whether the First Step Act contemplated plenary re-sentencings or if the Court is to be guided by 18 U.S.C. § 3582(c)(1)(B), for another day.

Instead, I hold narrowly that Reaves is entitled to a plenary<sup>3</sup> sentencing hearing because his right to allocute before Judge Caldwell and the Court's review of the factors set forth at 18 U.S.C. § 3553(a) were merely an academic exercise<sup>4</sup> due to the mandatory minimum term of life imprisonment.

**AND NOW, IT IS HEREBY ORDERED** that:

1. Defendant's Motion for Resentencing Hearing Under Section 404 of the First Step Act, April 5, 2019, ECF No. 473, is **GRANTED**.
2. The United States Probation Office is directed to file an addendum to the Presentence Report setting forth the revised advisory sentencing guideline range applicable to the Defendant on or before June 18, 2019.

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<sup>3</sup> See, e.g. *United States of America v. Rhines*, 4:01-CR-00310-JEJ, Order dated May 31, 2019, ECF No. 355.

<sup>4</sup> In fact, Judge Caldwell acknowledged as much, explaining, "I just feel very bad for you. But as I say, I have my duty to perform, and I don't have any choice in the matter."

3. Counsel for both the Government and for the Defendant are directed to file memoranda addressing the 18 U.S.C. § 3553(a) factors, as well as any post-sentencing rehabilitation efforts of the Defendant on or before July 18, 2019.
4. Sentencing is scheduled for August 5, 2019 at 11:00 AM in Courtroom 1, Fourth Floor, United States Courthouse and Federal Building, 240 West Third Street, Williamsport, Pennsylvania.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann

United States District Judge